

ICEX/SIDE

28 November 1967

MEMORANDUM FOR THE RECORD

SUBJECT: Legal Processing of Civilian Security Suspects

REFERENCE: Memorandum same subject, 11 November 1967

1. This memorandum will set forth and discuss certain reported information, as a basis for further investigation of the legal processing of Civilian Security Suspects,* which was recommended in Reference.

2. As of 1 October 1967, Civil Defendants (CD's) in the various detention facilities were reported (Attachment A, page 1) as follows:

	<u>Waiting Disposition</u>	<u>Sentenced</u>	<u>Total</u>
<u>National Prisons</u>			
Chi Hoa (Saigon)	585	832	1,417
Con Son Island	0	3,173	3,173
Tan Hiep (Bien Hoa)	3	845	848
Thu Duc (Gia Dinh)	77	217	294
Sub Total	<u>665</u>	<u>5,067</u>	<u>5,732</u>
Capital Zone (Gia Dinh)	84	97	181
<u>Provincial Jails</u>			
Region I	2,236	1,187	3,423
Region II	4,487	1,246	5,733
Region III	1,269	719	1,988
Region IV	1,808	1,852	3,660
Sub Total	<u>9,800</u>	<u>5,004</u>	<u>14,804</u>
Grand Total:	<u>10,549</u>	<u>10,168</u>	<u>20,717</u>

By far the largest group of CD's awaiting disposition is found in II Corps, with I Corps second. The great bulk of

*This is a comprehensive term including those civilians known in current terminology as Civil Defendants, Civil Detainees and VC Suspects.

those in II Corps are in Binh Dinh Province, principally at An Tuc, Bong Son and Qui Nhon. It was not possible on my brief visit to Qui Nhon to adequately investigate the CD situation in Binh Dinh. It should be done in the near future.

3. Somewhat more than half of the "sentenced" prisoners were detained by administrative order of the Security Committees; the others were sentenced by military courts, as set out on page 6 of Attachment A:

Waiting		10,549 (50+%)
Sentenced MT (Military Tribunal)	4,498 (21%)	
Sentenced AT (An Tri: Security Comm. order)	5,668 (27%)	
Total		<u>10,166 (49+%)</u> 20,715

4. A report for the period June 25 to July 30, 1967 (Attachment B) showed a drop in the number of Civilian Defendants in Regions I and II and a rise in the number in Region IV during the period. However, the total number of CD's (21,618) is close to that for October 1.

5. A report (Attachment C) received from the Staff Judge Advocate, MACV, gave this breakdown of prison population as of 18 July 1967.

Security Offenders

Awaiting disposition	11,417
Sentenced by Military Court	4,490
Detained by Provincial Security Committee	5,484
Total	<u>21,391</u>

This is consistent with the other information given above.

6. The situation in I Corps has been particularly fluid and difficult to estimate accurately, due to VC attacks which have released large numbers of prisoners and to the combat situation existing there. For purposes of comparison, the following figures are set out, taken from a report (Attachment D) received this month from I Corps.

Political Prisoners

Awaiting legal action	2,400
Serving sentence	568
Total in Jails	<u>2,968</u>

These figures are not inconsistent with those shown for Region I some weeks earlier (paragraph 2 above).

7. The prison populations are now undergoing a change due to the amnesty granted by the President at the time of his recent inauguration. Although Decree-Law No. 044/67 of 30 October 1967 does not appear on its face to grant amnesty to offenders against the national security, newspaper and other reports indicate that such persons are being released. An interim report, dated 20 November 1967, by PSD, CORDS, states as follows:

"3. Prisoners released during the Inauguration/Revolution Days amnesty period totaled 635. Since then about 1,900 more were either released or their sentences commuted. The latest report shows the number released by agency responsible as follows:

Ministry of Justice	300 Criminals
Directorate of Justice, DOD	140 CDs (convicted by military courts)
Province Security Committees	1,100 CDs (sentenced under An Tri)
National Police, Special Branch	1,000 Suspected CDS
Total	2,540 (Approximately)

8. A fairly accurate figure for the existing backlog of security cases can be arrived at, on the basis of available periodic reporting on prison populations. This can be supplemented and improved by obtaining independent reports from the various Regions and Provinces through additional channels, and by special reports on such events as the Presidential amnesty.

9. The input of new civilian security suspects to the legal system depends on various factors, such as for example, the capture, arrest and Chieu Hoi rates. As indicated in a memorandum from J-2 (Attachment E, para 2), it may not be possible to get from capturing forces, accurate information on the disposition of CD's. The same may be true regarding overall police statistics on CD's arrested. However, efforts should be made to obtain the maximum information available from these sources.

10. More solid data on the input of CD's can be obtained further along in the legal processing system. Information obtained by the Staff Judge Advocate, MACV (attachment F), shows that, in the first semester of 1967, civilian security offenders were being convicted in the military courts at the rate of 250 per month, or 3,000 per year. It is said that the number tried and acquitted is not large; information on this is probably obtainable by the SJA from the Directorate of Military Justice. It would be useful if the SJA could compile monthly reports showing CD cases referred to the military courts, with their disposition and sentences.

11. Statistics covering the cases processed and decided by the Provincial Security Committees throughout the country will obviously be harder to obtain, both because of the number and geographic dispersion of these committees and their secrecy of operation. Information can be obtained as to CD's who are "sentenced" by order of the Committees (Attachment A, page 6). It would be useful if PSD could show, in connection with its monthly reports on prison population, the input to the prison system of CD's sentenced by the Security Committees and by the Military Courts.

12. The Provincial Security Committee (PSC) commonly serves as a "legal screening" committee for CD's received by the civil authorities in the Province. Successful liaison work with the PSC or a member thereof would produce this information:

CD cases received	_____
Released as Innocent Civilians	_____
Referred to military court	_____
Detained by order of the PSC	_____

Information as to length of "sentences" might also be obtained. The best manner to obtain the foregoing information should be explored. Possibly some useful data can be obtained from the Central Security Committee in Saigon or from the Corps Commanders.

13. Additional aspects of the legal processing of Civilian Security Suspects will be explored in other memoranda, the objective being to build a body of knowledge, to serve as a basis for further directed investigation, and ultimately the making of comprehensive recommendations to improve and expedite the legal processing, trial and sentencing of security offenders.

Legal Counsel

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ATTACHMENTS

- A. Public Safety Division, CORDS, report - "Directorate of Corrections National and Provincial Corrections Centers (Sept 25 to Oct 1, 1967)".
- B. Public Safety Division, CORDS, report - "Prison Population Changes for the period June 25 to July 30, 1967."
- C. Report received August 1967, from Staff Judge Advocate, MACV - "Breakdown of Prison Population as of 16 July 1967."
- D. Report received Nov 1967 from ICEX/I Corps - "Provincial Jails in I Corps."
- E. Memorandum, 28 Sept. 1967, ACoFS, J-2, to CORDS/ICEX - "VC Civilian Prisoners."
- F. Report by Staff Judge Advocate, MACV - "Number of Security Offenders Tried and Convicted."